

SPECIAL CIVIL APPLICATION NO.1722 of 1996

Coram: A.N.Divecha, J.

04th March 1996

Order:

The challenge to the order of the Competent Authority at Surat passed on 13th June 1988 as communicated on 24th June 1988 (a copy of which is at Annexure-E to this petition) as affirmed in appeal by the common order passed by the Urban Land Tribunal at Ahmedabad (the Appellate Authority for convenience) on 30th December 1989 inter alia in the petitioner's Appeal No. Surat/88 of 1988 (a copy of which is at Annexure-F to this petition) is quite belated and cannot therefore be entertained. In the first place, the appellate order came to be passed as early as on 30th December 1989. Pursuant thereto, the Notification under section 10 (3) of the Urban Land (Ceiling and Regulation) Act, 1976 (the Act for brief) with respect to the land declared surplus under the impugned orders came to be issued some time in 1990 and the Notice under section 10 (5) thereto came to be issued on 11th May 1990. It is needless to say that the effect of the Notification under section 10 (3) would be vesting of the land declared surplus under the impugned order in the State Government free from all encumbrances. The hands of the clock need not be put back at the instance of the petitioner who had chosen to rise from his slumber after more than six years from the date of the appellate order at Annexure-F to this petition.

2. Learned Advocate Shri Shah for the petitioner has submitted that the application for exemption under section 20 of the Act was pending. A copy of that application is at Annexure-H to this petition. It transpires therefrom that it was made on 24th May 1991. Prior thereto, the Notification under section 10 (3) of the Act came to be issued some time in 1990 and the application for exemption at Annexure-H to this petition could be said to be an exercise in futility as the petitioner's surplus land had already vested in the State Government by virtue of the aforesaid Notification issued under section 10 (3) of the Act.

3. Learned Advocate Shri Shah for the petitioner has then invited my attention to one application for exemption (a copy of which is at Annexure-G to this petition). It does not mention any date of making it. A reference to one Government Circular of 2nd May 1980 is made therein. Relying thereon, it has been urged that it was made some time in 1990 and it was pending. It is difficult to believe that it remained pending for the simple

reason that no reference thereto was made in the application for exemption under section 20 (1) of the Act at Annexure-H to this petition. It would mean that the application at Annexure-G to this petition might have been rejected earlier and that is why the form filled in by the petitioner under section 6 (1) of the Act was duly processed by respondent No.1 culminating into his impugned order at Annexure-E to this petition.

4. Even otherwise, it transpires from the application at Annexure-G to this petition that it was liable to be rejected in view of the binding ruling of the Supreme Court in the case reported in AIR 1994 Supreme Court at page 923. In that view of the matter, its pendency or otherwise is of no consequence whatsoever.

5. In view of my aforesaid discussion, this petition does not deserve to be entertained at all. It is therefore summarily rejected.

04th March 1996

(A.N.DIVECHA, J.)